GN

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,537	01/11/2001	Noureddine Khelifa	1948-4745	5731

27123 7590 10/23/2002

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

EXAMINER
FORD, JOHN K

ART UNIT	PAPER NUMBER
3743	

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/743,537	Khelifa et al.
	Examiner	Art Unit
	FORD	3743

-- The MAILING DATE of this communication appears on th cover sh t with the correspondence address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☑ Responsive to communication(s) filed on 7-22-02.

2a)☑ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☑ Claim(s) 1, 3-8 is/are pending in the application.

4a) Of the above claim(s) 3, 7 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☑ Claim(s) 1, 4-6 and 8 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☑ The proposed drawing correction filed on 7/22/02 is: a)☐ approved b)☑ disapproved. Figures 6a-6c and 7 are still lacking reference numerals.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15)☑ Notice of References Cited (PTO-892)
16)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18)☐ Interview Summary (PTO-413) Paper No(s). _____ .
19)☐ Notice of Informal Patent Application (PTO-152)
20)☐ Other:

Applicant's election of the species of Figure 2 (as shown), claims 1, 4, 5, 6 and 8, being identified as being readable, is acknowledged. The traverse based on 1) grouping of claims 2) no undue diverse searching and 3) the conclusion that all claims should be examined together is unpersuasive. If a generic claim is allowed, all species claims will be allowed, which is certainly a fair result and takes care of points 1) and 3) above. Regarding point 2), the Examiner has found these cases to be very burdensome to search because, almost invariably, in the past, no generic claim has been allowed by this Examiner in these Valeo assigned cases. If applicant traverses this last assertion, please provide the Examiner with a serial number of a U.S. application in which this Examiner was the primary examiner and contained allowed generic claims to all species. The Examiner has had many years of previous dealings with Valeo assigned cases and doesn't recall ever allowing generic claims to all species. Thus, the search has always resulted in searching out minutia of one particular species which is a very burdensome process in the limited time allotted this Examiner for search.

Nearly three months has passed since applicant's response and no translations have been forthcoming.

Claim 6 does not pertain elected Figure 2. The multi-stage or two-stage throttle (38) is disclosed in non-elected Figure 7. It is deemed non-elected by this Examiner on that basis. Please designate it as non-elected in response to this action or show where in elected Figure 2 it is disclosed.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 4-6 and 8 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner sees no support in the original disclosure which would support the limitation, in now amended claim 1, that the second heat exchanger (the evaporator 22) is located downstream of the first heat exchanger (the engine coolant supplied heater 12). Figures 1 and 5 clearly show the evaporator upstream of both heaters 12 and 32. Figure 2 is a highly schematic showing and does not, in the Examiner opinion, adequately disclose that heat exchanger 32 is located downstream of the heat exchangers 12 and 32 in the air flow direction. At every detailed disclosure of the air flow in this specification, the order of the heat exchangers is always 22, 12 and 32. There is no other disclosure to support claim 1 as now amended.

Claim 6 is not disclosed in elected Figure 2.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 does not appear to be descriptive of elected Figure 2. Please amend it to be descriptive or designate it as non-elected. It appears to be directed to the subject matter of non-elected Figure 7.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Enomoto (Fig 8) and EP 0913281.

To have arranged cooler 36, heater 37, (Enomoto Figure 8) in duct 26 of Enomoto Figure 1 upstream and downstream respectively of heat exchanger 301 would have been obvious to one of ordinary skill in the art. Such a disposition of refrigeration cooler 15, coolant based heater 16 and refrigerant based heater 24 is fairly taught in Fig 1A of EP '281. The disposition of elements 15, 16 and 24 in this order with respect to air flow has advantages described in col. 3 lines 1-16 of EP' 281.

Alternatively, to have arranged the refrigeration circuit of EP '281 to supply heater 24 with hot refrigerant and cooler 15 with expanded refrigerant in the manner taught by Enomoto (fig 8) wherein cooler 36 is provided with expanded refrigerant and heater 37 is provided with hot refrigerant from parallel connected circuits with respect to compressor 10, would have been obvious to one of ordinary skill in the art to advantageously permit independent control of refrigerant heating and refrigerant cooling in EP '281.

Regarding claim 6, to the extent it is descriptive of Figure 2 of applicant's own disclosure it is descriptive of the prior art.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of EP 0696968 or EP 0699967 or EP 0199187.

In the event, applicant can convincingly argue that a multi-stage throttling valve or a two-stage throttling valve are disclosed in elected Figure 2, the Examiner rejects that claim here.

Karl (EP ' 968 or '967) assigned to Valeo, each teach a valve 14 which is adjustable to keep the fluid returning to the compressor in a gaseous state. EP '187 is similar. See valve 11. To have added such a valve to the prior art to ensure no liquid was ingested by the compressor would have been obvious to one of ordinary skill.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to John Ford at telephone number 703-308-2636.

John Ford
Primary Examiner
Art Unit 3743

John K. Ford
Primary Examiner

J. Ford/els

October 16, 2002